REMARKS

On page 2 of the Office Action, the Examiner issues a Restriction Requirement under 35 U.S.C. § 121 to one of the inventions of the following groups:

Group I - Claims 40-54, drawn to a targeted lipid particle comprising an assembly of one or more lipids and a method of delivery; or

Group II - Claims 55-81, drawn to a targeted polar lipid.

Specifically, the Examiner contends that restriction is proper because the invention of Group I, directed to particles which are made of a combination of polar lipids, are not necessarily of the polar lipid of Group II, and further the invention of Group I can contain, in addition, an active ingredient, and the method is directed to a delivery of an active agent, *in vivo* or *in vitro*.

Accordingly, Applicants hereby elect the invention of Group II, without traverse, and thus cancel non-elected Claims 40-54 without prejudice to the filing of a Divisional Application thereon.

In addition, the Examiner issues an election of species requirement as between one of the following species:

If Group I is elected: (a) the particles containing additional lipids as recited in Claim 51, or

(b) the particles containing additionally a biologically

active agent as recited in Claim 52; or

If Group II is elected: (a) the lipid of the formula in Claim 55, or

(b) the lipid of the formula in Claim 56.

Further, if Group II species (a) is elected, the Examiner requires Applicants to elect one specific group for L^4, L^1 and R^1; and if Applicants elect Group II species (b), the Examiner requires Applicants to elect one specific group for L^4, R^7, L^3, R^6, L^1, R^2, R^3 and R^4.

Specifically, the Examiner contends as to the Group II species, the compounds of Claim 55 requires only one cation OC, whereas the compounds of Claim 56 require several cation centers, and thus are technically different compounds.

Applicants hereby elect the targeted lipid in which the lipid component corresponds to Intermediate 19, with traverse for the reasons below. When expressed according to the formula in Claim 55, Intermediate 19, L^4 is $-(CH_2)_2-CO-NH-$, R^1 is a C_{23} hydrocarbon chain substituted by a poly(alkylene oxide) hydrophilic hydrocarbon (the hydrophilic hydrocarbon being indirectly linked through a linker group to the hydrocarbon chain, as envisaged in the disclosure at page 18, lines 29-32 of the specification), L^1 is $-CO-NH-(CH_2)_6-$ and OC is $-CH[CH_2-NH-(CH_2)_4-NH-(CH_2)_3-NH-CH_3]_2$.

The Examiner is requested to note that this same bipolar lipid can equally well be expressed according to the formula in Claim 56, in which case L^4 is $-(CH_2)_2-CO-NH-$, R^7 is $[CH_2-CH_2-O]_n$,

L^3 is $-(CH_2)_2-CO-NH-$, R^6 is $-(CH_2)_{23}-$, L^1 is $-CO-NH-(CH_2)_6-$, R^2 is hydrogen, and R^3 and R^4 each represent $-CH_2-NH-(CH_2)_4-NH-(CH_2)_3-NH(CH_3)$.

Claims 55-74 and 76-78 read on the elected species.

Applicants respectfully submit that the distinction which the Examiner has made between Groups II(a) and II(b) is incorrect. That is, the Examiner has overlooked that the group -OC in Claim 55 is an oligocation which, in accordance with conventional usage of the prefix "oligo-" and the definition given at page 6, lines 30-31 of the specification must contain at least two cationic centers. This is entirely consistent with Claim 56, wherein in the equivalent $-C(R^2)(R^3)(R^4)$ group, R^3 and R^4 must each contain at least one cationic center; the presence of a cationic center in R^2, on the other hand, is optional. Claim 56 is therefore properly presented as a dependent claim (dependent on Claim 55) and does not define a technically different compound from Claim 55, contrary to the Examiner's contention. Thus, the Examiner is requested to withdraw the election of species requirement.

Applicants note that upon allowance of the generic claims, Applicants will be entitled to consideration of additional species which are written in dependent form, or otherwise include all of the limitations of the allowed generic claim.

The Examiner is requested to note that in Section 3 of the specification, in which targeting antibodies are coupled to the bipolar lipid prepared as Intermediate 19 (*viz* compound 52 on page 130 of the specification), the heading "INTERMEDIATE 19" was inadvertently omitted from the first line of this page.

Applicants hereby amend the specification to correct this typographical error.

The Examiner is invited to contact the undersigned at his Washington telephone number on any questions which might arise.

Respectfully submitted,

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